

**LICENSING SUB-COMMITTEE****20 December 2006**Attendance:

Councillors:

Baxter (Chairman) (P)

Howell (P)

Pearce (P)

Others in attendance who did not address the meeting:

Councillor Beveridge

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1. **THE KINGS ARMS, CHESIL STREET, WINCHESTER**  
(Report LR207 refers)

The Sub-Committee met to consider an application by Mr David Nicholson for the variation of a premises licence under Section 34 of the Licensing Act 2003, to provide regulated entertainment in the form of recorded music, late night refreshment and supply of alcohol to the public until 0200 daily. The application also included the first floor of the premises, which the applicant proposed to convert into a restaurant.

The Parties present at the meeting (in accordance with the Licensing Act 2003 (Hearings) Regulations 2005) were Mr Nicholson (applicant) and Mr David Platt as an Interested Party. Graham Walsgrove (the District Building Control Surveyor) and PC Gary Miller (Hampshire Constabulary) were also in attendance, representing two of the Responsible Authorities.

The Assistant Licensing and Registration Officer presented the application to the Sub-Committee as set out in the report. She explained that under the current licence, which had been transferred from the previous licensee, regulated entertainment was already allowed until 0100 hours on Fridays and Saturdays and that the application sought to extend this until 0200 hours every day. 24 representations from Interested Parties had been received, plus representations from the Director of Communities (incorporating comments from Building Control) and the Police. In conclusion, the Assistant Licensing and Registration Officer stated that noise emanating from, and people leaving, the premises was the main concern of the Interested Parties.

Mr Nicholson then presented his application. He explained that, although the premises were currently a public house, he had submitted a planning application to convert The Kings Arms into a restaurant. The downstairs bar would be removed, with a small service bar, lounge and private dining room included in the plans for the first floor. The kitchen would be closed at 2200 hours and Mr Nicholson confirmed that, although he was applying for an extension until 0200 hours Monday to Sunday, he did not expect to remain open until this time more than a couple of times a year. He commented that he would like the flexibility of the extended hours if they were required.

Mr Nicholson agreed that noise could be an issue but that this was not caused by his premises. Noise from bars in the town centre (including disturbance caused by people walking home in the evenings) often kept his own family awake. He stated that the clientele that his restaurant would be aimed at would not cause a disturbance, but that until planning permission was granted, he had to keep the premises open as a public house.

In response to Members' questions, Mr Nicholson stated that the garden area would not be used regularly for entertainment and that customers would probably not sit outside until 0200 hours, even during the summer months. The garden was surrounded on two sides and therefore all noise would be focused towards the Black Boy Public House and not towards local residents. He added that there was no intention to have live music on the premises, but that this had been applied for to allow flexibility. Mr. Nicholson commented that he would agree to have this removed from the licence, should the Committee decide it was necessary. The Licensing and Registration Manager later explained that there was already a provision for live and recorded music under the current licence (although this did not extend to the outside parts of the premises). Recorded music at background level could be played both inside and outside, with no requirement for further licensing, as it would be incidental to the main licensable activities. He also explained that all of the conditions on the current licence would still apply.

Mr Walsgrove then explained that, in its current condition, the first floor of the premises was unusable by members of the public due to concerns over a safe means of escape during an emergency. He added that Listed Building consent would also need to be obtained in order to carry out the necessary works.

PC Miller confirmed that the concerns of Hampshire Constabulary related mainly to the premises being run as a public house. Until planning permission was received, the Police felt that the application submitted contained insufficient information to allay those concerns and that, as the premises was located within a residential area, certain controls should be introduced to ensure that residents were not disturbed. PC Miller then outlined the Police's requests, as set out in Report LR207, which included the installation of CCTV cameras and door staff, adding that these requirements would not be necessary in the event of the premises becoming a restaurant.

Mr Platt, as an Interested Party, then spoke about the application. He stated that his main concerns had been addressed during Mr Nicholson's presentation and that he had nothing further to add.

In response to the comments made by the Interested Party and Responsible Authorities, the applicant stated that since purchasing The Kings Arms, no noise complaints had been received. Therefore, he did not feel that the installation of CCTV or door staff were necessary at the current time. Their presence would send out the wrong message to potential customers about the nature of the premises and that, as he hoped the restaurant would be opened in late March 2007, these measures would not be required.

The Sub-Committee retired to deliberate in camera.

In his closing remarks, the Chairman stated that in reaching its decision, the Sub-Committee had given careful consideration to all the issues raised regarding the application, including those set out in the report and matters raised during the hearing.

RESOLVED:

1. That the application to vary the premises licence be granted, but that the variation not be effective unless and until the City Secretary and Solicitor certifies that the downstairs bar has been removed and other alterations carried out in accordance with the submitted plans.
2. The Premises Licence (as varied) be subject to the existing conditions, with the following changes and additional conditions:-

Operating Hours

1. The hours the premises may open for other than Licensable Activities shall be:

- (i) Monday to Sunday 0800 to 0230

2. The hours the premises may be used for the sale of alcohol shall be:

- (i) Monday to Sunday 1000 to 0200

3. The hours the premises may be used for regulated entertainment shall be:

- (i) Monday to Sunday 0800 to 0200  
(Indoors only)

4. The hours the premises may be used the provision of late night refreshment shall be:

- (i) Monday to Sunday 2300 to 0200  
(Indoors and Outdoors of the premises)

Crime and Disorder

None

Public Safety

1. The first floor shall not be used for the purposes of this licence until the means of escape has been protected and upgraded to the satisfaction of the Director of Communities.

Public Nuisance

None

Protection of Children

None

Informatives

The following measures are recommended to the Licensee, but are not being suggested as conditions, and would not be enforceable under the Licensing Act. In many cases, however, they may be requirements under other legislation.

1. The Licensee is advised to establish the acceptable occupancy for the premises in accordance with fire safety legislation.

2. All doors on escape routes should be free from fastenings, or if fitted should only be simple fastenings that can be readily operated from the side approached by people making an escape. The operation of these fastenings should be without the use of a key and without having to manipulate more than one mechanism.

3. Periodic inspection certificates should be kept on the premises for the emergency lighting, fire fighting equipment, and fire alarm and detection system.

4. Copies of fire test results on any fabrics should be held on the premises for inspection if required.

5. If the premises are not fitted with a fire alarm and detection system then a written procedure for raising the alarm should be kept on the premises.

The meeting commenced at 9.30am and concluded at 10.45am.

Chairman